IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

WP(C).No. 40469 of 2003(P)

PETITIONER:

N.K. ASOKAN, S/O. KUTTAPPAN,
AGED 41, LAKSHMI BHAVANAM, ERATTAKALAYIL HOUSE,
MUDIYOORKONAM P.O., PANTHALAM,
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.JOHNSON MANAYANI

RESPONDENTS:

1. THE ADDITIONAL DISTRICT MAGISTRATE
COLLECTORATE, PATHANAMTHITTA.

2. THE DISTRICT COLLECTOR, COLLECTORATE, PATHANAMTHITTA.

3. THE STATE OF KERALA, REPRESENTED
BY SECRETARY TO REVENUE, SECRETARIAT,
TRIVANDRUM.

4. THE LAND REVENUE COMMISSIONER,
OLD BOARD OF REVENUE OFFICE, MUSEUM ROAD,
TRIVANDRUM.

Addl.R5. RAJAPPAN ACHARY, S/O K.P.ACHARY,
KUTTILAPPATTU, JAYARAJ BHAVAN,
MUDIYOORKONAM P.O. PANTHALAM,
PATHANAMTHITTA DISTRICT.

Addl.R6. DEPUTY CHIEF CONTROLLER OF EXPLOSIVES
43/350, POWER HOUSE EXTENSION ROAD,
ERNAKULAM NORTH, COCHIN-18.
(Additional respondents 5 and 6 impleaded as per order dated

17.8.06 on I.A.No.10359/06)

BY GOVERNMENT PLEADER SMT.T.B.RAMANI
SRI.C.B.SREEKUMAR
SRI.P.PARAMESWARAN NAIR,ASST. S.G.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of the licence issued to the petitioner by the first respondent.

Ext.P2: Tue copy of the petition dated 30.7.2001 filed before the 2nd respondent.

Ext.P3: True copy of the petition dated 16.8.2001 filed by the petitioner before 2nd respondent.

Ext.P4: True copy of the notice of hearing dated 10.10.2001 issued by the 2nd respondent.

Ext.P5: True copy of the notes of argument dated 14.10.2001.

Ext.P6: True copy of the petition dated 15.11.2001.

Ext.P7: True copy of the judgment in O.P.16479 of 2002 dated 19.6.2002.

Ext.P8: True copy of the order of the first respondent dated 25.11.2002.

Ext.P9: True copy of the application to review Ext.P8 dated 3.10.2003.

Ext.P10: True copy of the letter issued by the Chief Controller of Explosives dated 29.8.06.

// True copy //

P.A. to Judge

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A.K.BASHEER, J.

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W.P.(C)No.40469 OF 2003

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Dated this the 23rd day of November, 2007

JUDGMENT

Petitioner who had been initially granted a license to possess and sell fire works as provided under the Explosives Act and Rules had on its expiry applied for renewal thereof. The said application for renewal was rejected by respondent no.1 as revealed from Ext.P8 order dated, November 25, 2002.

2. The primary objection raised by the competent authority against grant of renewal was that the shed constructed by the petitioner for the purpose of storing the fire works was hardly 6.60 Mtrs. away from the residence of Sri.Rajappan Achary, respondent no.5 herein, and that on the face of the objection raised by Sri.Rajappan Achary it may not be permissible under law to renew the license. Respondent no.1 had also referred to the report submitted by the Revenue Divisional Officer concerned, in this regard. The other reason for rejection of the application for renewal was that it was not submitted within the prescribed time limit.

3. Anyhow, I do not propose to deal with the legality and propriety of Ext.P8 order passed by respondent no.1 which is impugned in this writ petition. Learned counsel submits that

petitioner is prepared to approach the Appellate Authority for redressal of his grievance. His only apprehension is that since the limitation prescribed for preferring the appeal is already over, the appellate authority may not entertain the appeal.

4. Having regard to the fact that this writ petition has been pending before this court since December 19, 2003, the period spent by the petitioner before this court for prosecuting this writ petition shall be ignored by the Appellate Authority. If an appeal is preferred by the petitioner within one month from today, the Appellate Authority shall entertain the same ignoring the delay and an appropriate decision thereon shall be taken strictly on its merit and in accordance with law. Needless to mention that the Appellate Authority shall afford sufficient opportunity of hearing to the petitioner. A decision on the appeal shall be taken as expeditiously as possible, at any rate, within two months from the date of receipt of the appeal.

Writ petition is disposed of in the above terms.

(A.K.BASHEER, JUDGE)

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